

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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US DISTRICT COURT E.D.N.Y.

★ MAR 28 2011

BROOKLYN OFFICE
MEMORANDUM & ORDER

09-CV-3833 (ENV)(JMA)

SARAMMA GEORGE,,

Plaintiffs,

-against-

N.Y.C. HEALTH & HOSPITALS
CORPORATION AND COLER-GOLDWATER
HOSPITAL & NURSING FACILITY,

Defendants.

VITALIANO, D.J.

Pro se plaintiff filed the instant complaint on September 3, 2009 against N.Y.C. Health & Hospitals Corporation ("HHC") and Coler-Goldwater Hospital & Nursing Facility ("Coler-Goldwater"). The case was assigned to Magistrate Judge Joan M. Azrack for pre-trial proceedings. On March 1, 2011, Judge Azrack issued a Report and Recommendation ("R&R") recommending that plaintiff's complaint against HHC be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

In reviewing the Report and Recommendation of a magistrate judge, a district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). A district judge is required to "make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made" by any party. Fed. R. Civ. P. 72(b).

On August 13, 2010, Judge Azrack granted plaintiff a 45-day extension to serve and file proof of service upon HHC. Judge Azrack informed plaintiff at the time that failure to file proof of service by September 26, 2010 would result in the action being dismissed without prejudice

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for failure to prosecute pursuant to Rule 4(m). Since that date, plaintiff has failed to file proof of service or show good cause why service has not been made on HHC.

Accordingly, the Court finds Judge Azrack's Report and Recommendation as to the appropriate disposition of this matter to be correct, comprehensive, well-reasoned, and free of any clear error. The Court, therefore, adopts the Report and Recommendation in its entirety as the opinion of the Court and the complaint against HHC is dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

SO ORDERED.

Dated: Brooklyn, New York
March 25, 2011



ERIC N. VITALIANO
United States District Judge